

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRUCE BIRCH,

Plaintiff,

Case No. 3:20-cv-00618-MMD-WGC

v.

ORDER

DOUGLAS RANDS,

Defendant.

On November 5, 2020, Plaintiff Bruce Birch, then an inmate in the custody of the Nevada Department of Corrections, initiated this prisoner civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) On January 13, 2021, the Court directed Defendant Douglas Rands to file a suggestion of death on the record. (ECF No. 5.) The Court issued this order after a suggestion of death on the record was filed in Case No. 3:19-cv-00043-MMD-CLB, in which Birch was the plaintiff. That case was dismissed with prejudice on April 13, 2021 after no motion for substitution was made in accordance with Rule 25(a)(1) of the Federal Rules of Civil Procedure. (See Case No. 3:19-cv-00043-MMD-CLB, ECF No. 153.) Defendant Rands filed in this action a suggestion of death on January 14, 2021. (ECF No. 7.)

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 8), recommending that this action be dismissed under Fed. R. Civ. P. 25(a)(1). Because no motion for substitution has been made by a party or the decedent's successor or representatives in cases before this Court where Birch is the plaintiff,<sup>1</sup> the Court adopts Judge Cobb's Report and Recommendation, and will dismiss this action with prejudice. Accordingly, Birch's application to proceed in *forma pauperis* (ECF No. 1) is denied as moot.

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<sup>1</sup>See Case Nos. 3:19-cv-00640-APG-WGC, 3:19-cv-00643-MMD-WGC, 3:20-cv-00423-MMD-WGC, 3:20-cv-00493-MMD-CLB, and 3:20-cv-00544-GMN-CLB.

1 It is therefore ordered that Judge Cobb's Report and Recommendation (ECF No.  
2 8) is accepted and adopted in full.

3 It is further ordered that Plaintiff Bruce Birch's application to proceed *in forma*  
4 *pauperis* (ECF No. 1) is denied as moot.

5 It is further ordered that this action is dismissed with prejudice.

6 The Clerk of Court is directed to enter judgment accordingly and close this case.

7 DATED THIS 19<sup>th</sup> Day of April 2021.

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12 MIRANDA M. DU  
13 CHIEF UNITED STATES DISTRICT JUDGE  
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